

North Carolina Board of Massage & Bodywork Therapy

Open Session Minutes

February 18, 2010

TIME AND PLACE

The North Carolina Board of Massage and Bodywork Therapy met in Open Session in the offices of the Board on February 18, 2010 at 10:00 a.m.

MEMBERS PRESENT

Ms. Susan Beam, Dr. Raphael Orenstein, Ms. Laura Allen, Ms. Jaime Huffman, Ms. Nancy Toner Weinberger, Mr. Victor Farah and Mr. Kevin Powell

MEMBERS ABSENT

None

OTHERS PRESENT

Mr. Charles Wilkins and Mr. Ben Thompson, Legal Counsel to the Board, and Ms. Bonnie Kennedy, Administrative Director and Ms. Elizabeth Welden, Assistant Administrative Director.

CHAIR

Mr. Farah

RECORDING SECRETARY

Ms. Welden

CONFLICT OF INTEREST

Mr. Farah asked if any Board member had any conflict of interest with any item on the meeting's agenda. There being no conflict, the agenda was approved.

APPROVAL OF MINUTES

The Board approved its minutes of December 10, 2009.

TREASURER'S REPORT

The treasurer's report was approved as presented.

ADMINISTRATIVE REPORTS

Mr. Wilkins reported:

Proposed Amendments to Rules

Rule .0303, License Renewal, is recommended for amendment to comply with the directive by the 2009 Legislature that licensing boards grant extensions of time to complete continuing education and renewals for members of the armed services. A public hearing on the proposed rule change was held December 10, 2009 at 11:00 a.m. Public comment ended January 15, 2010. Upon motion made, seconded, and passed Rule .0303(e) was adopted for an effective date of April 1, 2010 and will be sent to the Rules Review Commission.

Status of Amendments to Practice Act

The 2009 session of the NC General Assembly adjourned July 22, 2009 and will reconvene May 12, 2010. There are no amendments to the Practice Act scheduled for consideration.

Amendments to Board's Guidelines

None

Disciplinary Hearings

There are no disciplinary hearings scheduled for today.

Orientation to New Board Members

The orientation booklet for new Board Members is being developed.

Ms. Kennedy reported:

Licensee Report

9,757 licenses have been issued
8,231 licensees are still in good standing

Renewal Report

There were 2406 licensees scheduled to renew by November 1, 2009 and 1966 have renewed. There are also 287 licensees whose licenses

expired December 31, 2007 required to renew by December 31, 2009 or they will be required to reapply and 37 have renewed.

Travel Voucher

A new travel voucher was provided in each Board members packet since the mileage rate allowed by the IRS has changed.

COMMITTEE REPORTS

Policy Committee

Ms. Beam, Chair, reported the Committee met February 3, 2010 as set forth in its written minutes. Ms. Beam further reported:

Disciplinary Actions on Website

The Committee discussed whether all disciplinary actions taken by the Board could be linked to the website so the public could click on the link and see the Board's Orders, Consent Orders and other disciplinary actions taken by the Board. Primary disciplinary actions would be Orders, Consent Orders and some Letters of Reprimand not previously agreed to be excluded. The Board agreed with the Committee's recommendation and further agreed that Cease and Desist Orders, Letters of Reprimand for late renewal of a license or non-sufficient funds in renewing a license or for advertising without the therapist's license number or name on the advertisement, should not be on the website or listed as disciplinary action for the public.

International Associate of Structural Integrators Examination

The Committee reviewed and discussed at length the request by the International Association of Structural Integrators that its examination be accepted by the Board as an entry level examination for structural integrators that would meet the requirements of N.C.G.S. 90-629(5). The Committee reviewed the additional materials presented and also reviewed the Board's procedure for approving examinations. The Committee discussed the requirements for a person to become educated as a Structural Integrator and compared those requirements with the Practice Act and Rules of the Board regarding the educational requirements for a person to become educated and licensed as a LMBT in North Carolina. The Committee was of the opinion the educational requirements for structural integration are sufficiently different from the educational requirements for massage and bodywork therapy such that it is not appropriate for the Board to accept the IASI Competency Assessment Examination as an entry-level examination for licensure as a LMBT in North Carolina. A letter was sent to IASI explaining the Board's position on the issue. The Board agreed with the

recommendation of the Committee and further agreed that the Policy Committee should meet with representatives of IASI to discuss how the education and practice of Structural Integration relates to the requirements of the Practice Act.

Definition of Body Treatment

A LMBT spa director asked the Board for a definition of 'body treatment' and came to the conclusion that there is no recognized definition of 'body treatment'.

Late Fees

There was a request to make a change in late fees for renewals. The current fee is \$75 and it was proposed that the fee increase after a massage therapist has allowed their license to expire on December 31. The Committee agreed the penalty should remain as it is.

Continuing Education Standards

The Committee considered the question of whether the Board should limit the number of "self care" hours for continuing education and possibly reduce the number of hours for those who have been licensed for many years. There will be further discussion of these topics at the next meeting.

Cooperation with Community College System

Mr. Farah, Ms. Beam and Ms. Weinberger met with Renee Batts, the Community College System liaison, on February 18, 2010.

License by Endorsement

License by Endorsement A and B does not cover all contingencies but cannot be changed until the Practice Act is "opened". Ms. Beam or Mr. Wilkins will meet with Ed Sansbury to discuss the issue.

License Standards Committee

Ms. Huffman, Chair, provided minutes of the Committee's December 10, 2009 meetings as follows:

The Committee met from 10:00 a.m. until 5:00 p.m. and considered the following matters:

Nhan Nguyen

The Committee conducted an interview with Mr. Nguyen regarding his

past criminal record, his current status and the changes that have occurred in his life since his teenage years, his criminal activities and his release from prison May 14, 2005. The Committee also interviewed Mr. Nguyen's fiancée. Mr. Nguyen graduated from Southeastern School of Neuromuscular Massage in Charlotte and has passed the MBlax. He has recently been working as a tile setter in Alaska. He returned from Alaska for the interview with the Committee.

Following the interviews, the Committee reviewed Mr. Nguyen's application file in detail and in compliance with the Committee's procedure for reviewing applications with moral character or criminal record issues. The Committee agreed to issue Mr. Nguyen a Conditional License on the conditions that he (1) report any arrest within seven days of its occurrence, (2) agree that any arrest will result in immediate suspension of his license until all charges are resolved and an arrest and conviction may result in his license being revoked, (3) agree to random drug testing, (4) report any change of employment within seven days of its occurrence, and (5) report any change of address within seven days of its occurrence.

Suk Byun Bang

The Committee reviewed Mr. Bang's criminal record and his explanations of the events surrounding his three DWI convictions. The Committee did not have sufficient information to make a decision and asks that Mr. Bang provide the Committee with the substance abuse assessments and treatment records related to his three DWI convictions. Upon receipt of the requested records, the Committee may interview Mr. Bang.

James Grady

The Committee reviewed Mr. Grady's criminal record and his complete application file in detail and in compliance with the Committee's procedure for reviewing applications with moral character or criminal record issues. The Committee agreed Mr. Grady has not presented to the Committee sufficient proof of rehabilitation from his past criminal activity nor has he demonstrated that he currently possesses good moral character. The Committee will recommend that the Board deny his application at this time. Mr. Grady may reapply in the future but should allow sufficient time to demonstrate rehabilitation and good moral character. Mr. Grady may appear before the Board when the Committee makes its recommendation.

Tamara Richards

The Committee reviewed Ms. Richards's application file and determined she met the qualifications and should be issued a regular license.

Informing Students and Prospective Students of the Requirement of Good Moral Character

The Committee discussed requiring that schools publish in their enrollment agreements with students that applicants for a license are required to provide evidence of their good moral character and that an applicant's license will be denied if the applicant cannot demonstrate good moral character. The Committee also considered a document or power point presentation prepared by the Board for the school to provide to students and prospective students demonstrating what the Board considers when making a determination of an applicant's good moral character and how the Board makes that determination.

The Committee considered Rule .0618 Orientation of Students and questioned what schools produce to demonstrate they are in compliance with Rule .0618(d) and (e).

School Approval Committee

Ms. Weinberger reported the Committee met on February 11, 2010.

New Rules: .0629(9); .0629(10); .0630(11)

Mr. Wilkins reported on three new rules the committee recommends to increase potential students' awareness of the requirement that an applicant for a LMBT license must have good moral character and the Board's review of the applicant's criminal record:

.0629(9) Statement that you must hold a North Carolina massage and bodywork therapy license in order to practice massage and bodywork therapy in North Carolina. No Change

.0629(10) Statement that good moral character is a requirement for licensure as a massage and bodywork therapist in North Carolina and, pursuant to N.C. G. S. 90-629.1, the North Carolina Board of Massage and Bodywork Therapy may deny a license to practice massage and bodywork therapy if an applicant has a criminal record or there is other evidence that indicates the applicant lacks good moral character.

.0630(11) Statement pursuant to N.C.G.S. 90-629.1., the North Carolina Board of Massage and Bodywork Therapy may deny a license to practice massage and bodywork therapy if an applicant has a criminal record or there is other evidence that indicates the applicant lacks good moral character.

Upon motion made, seconded, and approved, the Board agreed to start the rules adoption process.

Site Visit Protocol

Ms. Weinberger reported the Committee agreed: (1) schools should receive a site visit every three years unless the school has problems or unresolved issues with the SAC or Board; (2) a school should receive a site visit whenever it changes its location; (3) when a new program director is hired an interview will be scheduled with the new director at the Board office; (4) a site visit will be scheduled if necessary to confirm that a school has complied with a requirement of the SAC or Board; and (5) a school library may include technology but there must be actual tangible learning resources and not just access to the internet.

Jurisprudence Examination Committee

Ms. Weinberger reported she had sent out exam questions for Board Members to evaluate. There was discussion about having school directors and licensees also take the exam. The few Board members that have not taken the practice exam will do so in the next two weeks and report back to Ms. Weinberger. There will be more discussion at the next Board meeting about the questions, the format and the process.

Body of Knowledge

The Board discussed the massage therapy "Body of Knowledge" that is under development by the Massage Therapy Foundation (www.mtbok.org) and reminded the members that there are two weeks left for comment.

Communications Committee

Ms. Beam reported the Newsletter was sent out in January.

Letters to the Editor

Ms. Beam mentioned the possibility of educating the public about massage and bodywork therapy through letters to the editor. This possibility will be discussed further.

Licensing Boards Coordination Committee

No report.

OLD BUSINESS

Strategic Planning Retreat

Ms. Huffman reported the strategic planning retreat took place on January 8-11, 2010 at the Rizzo Conference Center in Chapel Hill to discuss a three to five year plan for the Board. The summary below has been provided to the Board members and is also available online for the public:

The Board and staff met Saturday, January 9 and Sunday, January 10, 2010 for a Strategic Planning Retreat. The meetings were led by a meeting facilitator who kept the Board members interactive and focused. The primary issues discussed and placed on Board committee calendars for future consideration and possible action included:

1. The Licensing Board Coordinating Committee will consider strategies for working with other licensing boards that may refer to or may include massage therapy in their practices.
2. The Policy Committee will consider strategies to encourage community colleges to meet minimum standards for curriculum, faculty and resources
3. The License Standards Committee will consider a framework for dealing with substance abuse and mental health issues in the licensing and disciplinary process.
4. The Establishment Regulation Committee will consider how the Board may more effectively regulate businesses that employ LMBTs or offer massage or bodywork therapy services.
5. The Board will consider a board policy manual.
6. Board staff will consider a system to orient new board members.
7. The Policy Committee will consider the penalty for late renewals.
8. The Board will consider use of more technology in Board operations.
9. The School Approval Committee will consider an education program to decrease the number of applicants with criminal records.
10. The Policy Committee will consider whether additional educational and/or testing standards should be established for certain professional disciplines practicing "massage and bodywork therapy".
11. The School Approval Committee will consider the educational and training requirements for initial licensure.
12. Board staff will consider whether the current requirements for licensure by endorsement need to be amended.
13. The Board will consider the steps necessary to finalize and begin to administer its jurisprudence exam.
14. The Policy Committee will consider the Board's continuing education standards.

15. The Board will consider the amount and type of work the Board has to do and determine what it will ask staff to manage.
16. The Board will consider an annual performance review of its contracted management.

NEW BUSINESS

States that Regulate Massage Therapy

Ms. Kennedy reported on the map 'States Regulating Massage Therapy'. There are now two unregulated states, four states with pending regulation, and the remaining forty-four regulated states.

Federation of State Massage Therapy Boards

Ms. Beam reported the Board is a member of the Federation of State Massage Therapy Boards. The Federation pays for the expenses of one delegate to attend the meeting as well as the expense of officers of the Federation. Ms. Beam is an officer of the Federation. The next Annual meeting will be Oct. 7-10, 2010 in Puerto Rico. Upon motion made, seconded and passed, the Board agreed to pay for any members who would like to attend. Ms. Huffman and Mr. Powell will speak with Mr. Farah about being appointed as the North Carolina delegate.

Federation of Associations of Regulatory Boards

Ms. Beam reported that she attended the 34th FARB forum in January. The meeting focused on topics such as a client/patient 'Bill of Rights', appointment process for Board members, essential characteristics for Board members, criminal conviction, branding regulations and ways to incorporate new services and programs through technology. She would encourage sending a Board member to the conference the last week of January 2011 in New Orleans. Who will attend will be on the agenda for the next Board meeting.

PUBLIC COMMENT

The Board received comments from the public.

CLOSED SESSION

Upon motion duly made, seconded, and passed, and pursuant to NCGS 143-318.11(a) (1) and (3), the Board went into Closed Session at 12:00 p.m.

RETURN TO OPEN SESSION

The Board returned to Open Session at 1:20 p.m.

ADJOURNMENT

Upon motion duly made, seconded and passed, the meeting was adjourned at 1:20 p.m.

Mr. Victor Farah, Chair

Dr. Raphael Orenstein, Treasurer